

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
(317) 232-9855

**FISCAL IMPACT STATEMENT**

**LS 6319**

**BILL NUMBER:** HB 1248

**DATE PREPARED:** Mar 29, 2001

**BILL AMENDED:** Mar 29, 2001

**SUBJECT:** Tort Claims Against Governmental Entities.

**FISCAL ANALYST:** John Parkey

**PHONE NUMBER:** 232-9854

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill increases the combined aggregate liability of all governmental entities and public employees under the law concerning tort claims against governmental entities and public employees from \$300,000 to \$500,000 for injury to or death of one person in any one occurrence. The bill increases the claim limits for policies provided to participating political subdivisions by the Political Subdivision Risk Management Commission from \$300,000 to \$500,000 for injuries, death, or damage suffered by any one person.

**Effective Date:** January 1, 2002.

**Explanation of State Expenditures:** (Revised) This bill will potentially increase the damage awards that governmental entities would pay as a result of successful lawsuits filed against the state and political subdivisions of the state and public employees. Under current law, damage awards cannot exceed \$300,000 for the injury to, or death of, one person in any one occurrence. This bill will increase the damage award limit to \$500,000.

It is estimated that this bill *could* increase the state's liability in tort claims by approximately \$488,000 per year.

*Background Information:* Since FY 1996, the state has paid 14 tort claims valued between \$250,000 and \$300,000. Since these settlements were near the limit for tort claims paid by the state, it was assumed that these claims *might* be higher if the settlement cap were raised to \$500,000. The average settlement from these 14 cases equaled approximately 94.8 % of the \$300,000 limit. The analysis assumed that if the cap were raised, this group of claims would be paid the same percentage of the \$500,000 limit. This analysis did not assume that increasing the limit would cause a greater number of tort claims to be paid by the state.

It should be noted that the number and severity of claims paid by the state will vary from year to year. The

Office of the Attorney General reports the amount of damages paid as a result of tort claims submitted and tort claim lawsuits filed against the State and by plaintiffs in tort and civil rights litigation between **CY 1995 and CY 1999** as follows:

<u>CY</u>	<u>Damages Paid</u>
1999	\$ 5,052,346
1998	\$ 2,935,075
1997	\$ 3,438,230
1996	\$ 5,742,977
1995	\$ 6,362,071

The amount paid includes tort claims paid at the time of claim submission, settlements upon the filing of lawsuits, and as a result of a court order. It also includes cases in both federal and state court.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** (Revised) This bill could increase the damage awards that local entities would be required to pay as a result of a successful lawsuit. Under current law, damage awards cannot exceed \$300,000 for the injury to, or death of, one person in any single occurrence. This bill will raise the maximum award for the injury or death to one person from \$300,000 to \$500,000. This increase also applies to claims from political subdivisions participating in the Political Subdivision Risk Management Commission.

**Explanation of Local Revenues:**

**State Agencies Affected:** Office of the Attorney General.

**Local Agencies Affected:** Counties, cities, and towns.

**Information Sources:** Dan Dovenbarger, Office of the Attorney General, (317) 232-6201; Auditor of State.